

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JERRY LEWIS DEDRICK §
VS. § CIVIL ACTION NO. 1:07cv67
HONORABLE ROBERT A. JUNELL §

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Jerry Lewis Dedrick, an inmate confined in the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brings this civil rights action against the Honorable Robert A. Junell, District Judge, United States District Court for the Western District of Texas.

The above-styled action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Factual Background

Plaintiff complains that Judge Junell has denied him freedom of speech and expression, discriminated against him, denied him access to the courts, and denied him due process and equal protection.

Analysis

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. Here, plaintiff complains of incidents

which occurred in the Western District of Texas. Further, the defendant is located in Midland, Texas which is in the Western District of Texas. When public officials are parties to an action in their official capacities, they reside for venue purposes in the county where they perform their official duties, which in this case is Midland, Texas. *Holloway v. Gunnell*, 685 F.2d 150 (5th Cir. 1982); *Lowrey v. Estelle*, 433 F.2d 265 (5th Cir. 1976).

Pursuant to 28 U.S.C. § 124, Midland is in the Midland-Odessa Division of the Western District of Texas. As Midland is located in the Western District of Texas, venue in the Eastern District of Texas is not proper.

When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). This case should be transferred to the Western District of Texas. An appropriate order so providing will be entered by the undersigned.

SIGNED this the 5th day of March, 2007.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE